IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 25TH JANUARY 2007 / 5TH MAGHA 1928

RP.No. 285 of 2006(I)

AGAINST THE JUDGEMENT IN WPC.18352/2005 Dated 16/11/2005
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REVIEW PETITIONER/PETITIONER IN W.P.(C)

A.K.RAVI, ASST. COMMISSIONER,
SPECIAL CIRCLE, KANNUR.

BY ADV. SMT.V.P.SEEMANDINI
SMT.T.B.REMANI

RESPONDENTS:
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1. STATE OF KERALA, REP. BY ITS
SECRETARY TO GOVT., TAXES (C) DEPARTMENT,
GOVT. SECRETARIAT, TRIVANDRUM.

2. THE COMMISSIONER OF COMMERCIAL TAXES,
TRIVANDRUM.

3. THE DEPUTY COMMISSIONER
(AUDIT ASSESSMENT),
COMMERCIAL TAXES DEPARTMENT, KASARGODE.

BY GOVT. PLEADER SHRI. P.NANDAKUMAR

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 25/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.K. DENESAN, J.

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R.P. No. 285 of 2006 in
W.P.(C) No.18352 OF 2005

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Dated this the 25th January, 2007

O R D E R

The Review Petition is at the instance of the writ petitioner. The writ petition was practically allowed granting reliefs to the petitioner. Directions issued to the respondents to pass immediate orders promoting the petitioner to the post of Asst. Commissioner, Commercial Taxes, from the post of Sales Tax Officer.

2. In the judgment under review this Court held that since the disciplinary proceedings initiated against the petitioner were dropped, he is entitled to claim consequential benefits and that his claim for promotion to the post of Asst. Commissioner of Sales Tax ought to be taken up.

3. The specific prayer made in the writ petition was to grant him the benefit of promotion with effect from 1-6-2005. This Court while granting relief to the petitioner did not direct that the benefits of promotion shall be given with effect from 1-6-2005 onwards. It is under the above circumstances this

review petition has been filed.

4. I have heard the counsel for the petitioner and the Govt. Pleader for the respondents.

5. It is a fact beyond doubt that the immediate junior of the petitioner was promoted to the post of Asst. Commissioner of Commercial Taxes, with effect from 1-6-2005 as per Ext. P2 order. Hence, the petitioner is justified in seeking directions to the respondents to grant him promotion with effect from that date. I am of the view that the omission to direct the respondents to grant the petitioner the benefit of notional promotion as Asst. Commissioner, Commercial Taxes with effect from 1-6-2005 is an error apparent on the face of the judgment. Hence, it is only just and proper that the review petitioner is granted appropriate relief and the judgment under review is suitably modified.

6. Accordingly, the judgment shall stand reviewed to the extend of granting additional relief, in terms of the above finding. There shall be an order directing the respondents to grant the petitioner notional promotion to the post of Asst. Commissioner of

Commercial Taxes with effect from 1-6-2005. He shall be given the benefit of notional fixation of pay and consequential benefits in the matter of terminal benefits as well. However, he would not be entitled for the difference in pay for the period covered by the notional promotion. Since the petitioner has retired from service, the respondents shall take immediate steps to grant him due benefits as ordered, expeditiously, in any event, within two months from the date of receipt of a copy of this order. Review petition is disposed of accordingly.

K.K. DENESAN
JUDGE

jan/